IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

(CHHATTISGARH)

SINGLE BENCH

WRIT PETITION NO. 3055 OF 2006

PETITIONER : Smt. Anuj Bai Wife of Shri Kunjal Singh Diwan, aged about 29 years, Caste-Kanwar, Sarpanch, Village Panchayat, Pachri, Janpad Panchayat Mahasamund, Police Station Pithoura, Tahsil and District Mahasamund (C.G.).

I.A. No. 3108/06
Presented by Shri V.K. Pandey
dated 27/6/06

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through: The Secretary, Department of Panchayat and Social Welfare, D.K.S. Bhawan, Raipur (C.G.).
2. The Collector, District Mahasamund, (C.G.).
3. The Sub Divisional Officer (Prescribed Authority), Mahasamund, District Mahasamund (C.G.).
4. The Chief Executive Officer, Janpad Panchayat Mahasamund, District Mahasamund (C.G.).
5. Smt. Resham Bai, Up-Sarpanch, Village Panchayat Pachri;
6. Umesh Kumar, Panch;
7. Premlal, Panch;

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27/06/06

8. Vimal; Panch;

9. Smt. Dasri Bai, Panch;

10. Smt. Nemin Bai, Panch;

11. Bhisham, Panch;

12. Smt. Ameshwari Bai, Panch;

13. Gosai Das, Panch;

14. Jhagarlal, Panch;

15. Smt. Rath Bai, Panch;

16. Sunder Lal, Panch;

The respondent No.5 to 16 are resident of Village Panchayat, Pachri, Janpad Panchayat Mahasamund, Police Station Pithoura, Tahsil and District Mahasamund (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI, PROHIBITION ETC.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..... W.P. 3055/ **सन्** 2006

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**28-6-2006**

Mr. V.K. Pandey, counsel for the petitioner.

Mr. N.K. Agrawal, Deputy Advocate General for the State/respondents No.1, 2 & 3, on advance copy.

Heard on admission.

By this writ petition, the petitioner has questioned legality, propriety and correctness of the order dated 20th June, 2006, passed by the Collector, Mahasamund, whereby the reference made by the petitioner has been rejected.

Brief facts leading to filing of this writ petition are that the petitioner was elected Sarpanch of Village Panchayat: Pachri and she was discharging her duty as such. However, the Panchas of the Village Panchayat made an application before the Sub Divisional Officer, the prescribed authority, under Rule 3 of the Chhattisgarh Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janapad Panchayat Tatha Zila Panchayat Ke President Tatha Vice-President Ke Virudh Avishwas Prastav) Niyam, 1994 (hereinafter referred to as 'the Rules, 1994'). Learned prescribed authority after satisfying himself about the admissibility of notice, fixed the meeting of the Gram Panchayat on 29-4-2006 for consideration of no confidence motion against the petitioner and directed for issuance of notice, on which the notice dated 18-4-2006 (Annexure P-4) under sub-rule (3) of Rule 3 of the Rules, 1994, specifying the date, time and place of the meeting, was issued to the petitioner. In pursuance of that, meeting of the Panchayat was convened on 29-4-2006 at 11 a.m. in the Panchayat Bhawan: Pachri. Vide resolution Annexure P-6, no confidence motion was carried out against the petitioner. The petitioner made reference to the Collector under the provisions of

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** W.P.3055/ **सन्** 2006

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश - 2 - | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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Section 21 (4) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993, and the same has been rejected by the impugned order.

The only ground raised by the petitioner is that the notice was received by her on 25-4-2006 i.e. four days before the date of meeting, therefore, same was not in conformity with the provisions of Rule 3 (3) of the Rules, 1994, as such, she could not participate in the meeting also. Sub-rule (3) of Rule 3 of the Rules, 1994, envisages that "*the notice of such meeting specifying the date, time and place thereof shall be caused to be despatched by him through the Secretary of the Gram Panchayat to every member of the Panchayat concerned seven days before the meeting*". Therefore, sub-rule (3) of Rule 3 of the Rules, 1994 requires that the notice is to be dispatched before seven days. There is no requirement of the Rule that it is to be delivered seven days before the meeting. As the notice was despatched on 18-4-2006 and the meeting was fixed on 29-4-2006, there was no illegality in the notice and there was no contravention of sub-rule (3) of Rule 3 of the Rules, 1994.

In the circumstances, I do not find any illegality or infirmity in the order passed by the Collector, as also the prescribed authority, and as such, this writ petition has no merit, same is liable to be dismissed and it is hereby dismissed, in limine.

Consequently, M.(W.)P.No.2330/2006 stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Soma